

REMARKS/ARGUMENTS

Claims 1-44 are pending in the application. Claims 1-44 are rejected. Claims 1-5, 15, 25 and 35 have been amended. No new matter has been added herein. The rejections and comments set forth in the Office Action dated November 26, 2007 have been carefully considered by the Applicants. Applicants respectfully request the reconsideration and allowance of Claims 1-44 in view of the instant response and amendments.

Amendments to the Claims

Claim 1 has been amended to reflect the following:

A method of selecting a media service provider based on static resource information, said method comprising:

identifying a type of service to be performed on an item of content before a service result is provided to a client device, wherein said item of content is identified during a session between said client device and a service location manager;

selecting a service provider from a plurality of service providers based on static service provider information and static network information, wherein said selecting a service provider is performed by said service location manager, said selecting of a service provider further based on service session information if said service session information has been received; and

providing information for transferring said session to said service provider, wherein said service provider performs said type of service on said item of content.

Support for this amendment can be found at least on page 11, 2<sup>nd</sup> full paragraph of the Specification. Claims 3, 4, 5, 25, and 35 have been similarly amended.

Claim 2 has been amended to reflect the following:

A system for providing content to a client device, said system comprising: a service location manager that selects a service provider that is capable of performing a type of service on an item of content from among a plurality of service providers based on static service provider information and static network information, said item of content and type of service to be performed on said item of content ~~is are~~ identified during a session between a said client device and said service location manager, wherein said type of service is ~~said~~ identified before a service result is provided to said client device, said service location manager further selecting said service provider based on service session information if said service session information has been received.

This amendment corrects typographical and clerical errors, as well as antecedent problems.

Claim 15 has been similarly amended.

Claim 4 has been amended to reflect the following:

A computer ~~useable medium~~ storage medium having stored thereon computer ~~program codes that when executed by a processor~~ useable code ~~embodied therein~~ for causing a computer to perform operations comprising:

identifying a type of service to be performed on an item of content before a service result is provided to a client device, wherein said item of content is identified during a session between a said client device and a service location manager;

selecting a service provider from a plurality of service providers based on static service provider information and static network information, said selecting of a service provider further based on service session information if said service session information has been received; and

providing information for transferring said session to said service provider, wherein said service provider performs said type of service on said item of content.

Claim 35 has been similarly amended. Applicants have amended Claims 4 and 35 in response to the 35 U.S.C. §101 rejection of the Office Action mailed November 26, 2007 (hereinafter, the present Office Action) and suggested corrections.

35 U.S.C. §101 Rejections

Claims 4, and 35-44 are rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. On page 3 of the present Office Action, the second paragraph suggests the following:

To expedite the prosecution of the case, it is suggested that the applicant overcome the 35 U.S.C. rejection by amending the claims to: “a computer storage medium having stored thereon computer program codes that when executed by a processor causing a computer to perform operations comprising”.

Applicants have so amended independent Claims 4 and 35 to reflect the present Office Action’s suggestion.

Therefore, Applicants respectfully submit that Claims 4 and 35 are directed to statutory subject matter. Additionally, Applicants respectfully submit that Claims 36-44 are also directed towards statutory subject matter as being dependent upon statutory Claim 35. Applicants respectfully request that the 35 U.S.C. §101 rejection of Claims 4 and 35-44 be removed.

Claim Objections

Claims 2, 3, 4, 15, 25, and 35 are objected to as having preambles that are too general. On page 4, section 11, the present Office Action states that “Claims 2, 3, 4, 15, 25, and 35 are objected to because the claim preambles are too general. A more specific preamble for each claim is required.” Applicants respectfully assert that an objection as to a claim preamble as being “too general” is improper. Applicants respectfully submit that the MPEP does not reference a “too general” preamble as being objectionable material. Therefore, Applicants

respectfully request that objections to Claims 2, 3, 4, 15, 25, and 35 as having preambles that are “too general” be withdrawn.

Claim 2 is objected to “for containing typographical or grammatical errors”. Present Office Action, page 4, Section 12. In addressing the typographical or grammatical errors, Applicants have made corrections to Claim 2, as well as to Claim 4, 15, and 35 which address the typographical and grammatical errors.

Claim 2 is objected to “for reciting “during a session between a client” (line 6), although the claim has recited “a client device” in the preamble. Therefore, the phrase will be treated as “during a session between the client.” Emphasis added. Present Office Action, page 5, Section 13. The antecedent basis for “the client” is questioned. Applicants respectfully submit that amended lines 6-7 of Claim 2 state, “service to be performed on said item of content are identified during a session between said client device and said service location manager, wherein said type of service is identified before a”. Emphasis added. Thus, “said client device” refers to “a client device” appearing in the preamble of Claim 2 and 15. Applicants respectfully request that the objection to Claim 2 on the basis that there isn’t proper antecedent basis in Claim 2 be withdrawn.

#### 35 U.S.C. §102(e) Rejections

Claims 1-4, and 15-17 are rejected under 35 U.S.C. §102(e) as being anticipated by Menditto et al. (U.S. Patent No. 6,981,029) (hereinafter, Menditto). Applicants respectfully

submit that Claims 1-4 and 15-17 are not anticipated by Menditto for at least the following rationale.

Claim 1 recites:

A method of selecting a media service provider based on static resource information, said method comprising:

identifying a type of service to be performed on an item of content before a service result is provided to a client device, wherein said item of content is identified during a session between said client device and a service location manager;

selecting a service provider from a plurality of service providers based on static service provider information and static network information, wherein said selecting a service provider is performed by said service location manager, said selecting of a service provider further based on service session information if said service session information has been received; and

providing information for transferring said session to said service provider, wherein said service provider performs said service on said item of content.

Emphasis added. Claims 2-4, and 15 recite similar features. Furthermore, Claims 16-17 depend from Claim 15 and recite additional features.

MPEP §2131 provides:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). … “The identical invention must be shown in as complete detail as is contained in the … claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Applicants respectfully submit that Menditto does not disclose “selecting a service provider from a plurality of service providers based on static service provider information and static network information, said selecting a service provider is performed by said service location manager, said selecting of a service provider further based on service session information if said service session information has been received” as recited in amended Claim 1. Emphasis added.

Applicants understand Menditto to disclose a system which provides for selecting a content provider for delivering requested content in the most efficient manner. Menditto, ABSTRACT, and Col. 1, lines 54-67. Furthermore, Menditto's Col. 1, lines 35-39 state, "...it may be appreciated by those skilled in the art that a need has arisen for a system and technique that can locate an appropriate server to fulfill an information request by using only the contents of the request.". Emphasis added.

In particular, since Menditto focuses upon finding the most efficient manner to deliver the content of a request from a content provider, Applicants respectfully submit that Menditto fails to disclose "selecting a service provider from a plurality of service providers based on static service provider information and static network information ..." (emphasis added) as recited in Applicants' Claim 1.

Therefore, Applicants respectfully assert that the rejection of Claims 1-4, and 15 under 35 U.S.C. §102(e) is not proper as each claim under consideration is not disclosed in Menditto, and that Claims 1-4 and 15-17 thus overcome the rejection under 35 U.S.C. §102(e) and are allowable. Additionally, Applicants respectfully assert that the Claims 16-17 are allowable as being dependent upon allowable base claims.

#### 35 U.S.C. §103(a) Rejections

The present Office Action rejected Claims 5-14, and 18-34 under 35 U.S.C. §103(a) as being unpatentable over Menditto in view of Bochmann et al. (Quality of service management issues in electronic commerce applications) (hereinafter, Bochmann). Applicants respectfully

submit that embodiments of the claimed invention are not rendered obvious over Menditto by Bochmann for at least the following rationale.

“As reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries” including “[a]scertaining the differences between the claimed invention and the prior art” (MPEP 2141(II)). “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious” (emphasis in original; MPEP 2141.02(I)).

Applicants note that “[t]he prior art reference (or references when combined) need not teach or suggest all the claim limitations, however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art” (emphasis added; MPEP 2141(III)).

Applicants respectfully submit that the claimed invention as a whole is not obvious over Menditto in view of Bochmann. Bochmann does not remedy the deficiencies in Menditto in that Bochmann does not suggest “selecting a service provider from a plurality of service providers based on static service provider information and static network information, wherein said selecting a service provider is performed by said service location manager, said selecting of a service provider further based on service session information if said service session information has been received” as recited in Applicants’ Claim 1.

Applicants respectfully submit that Bochmann teaches away from Applicants' Claim 1. For example, Applicants understand Bochmann to disclose a broker-oriented architecture, which is designed for a broker to make server selections. Whereas Bochmann's server selection is performed by a broker, Applicants' server selection is performed by a service location manager. Bochmann's broker is a human whereas Applicants' service location manager is not human. Furthermore, Bochmann does not suggest a benefit or reason to use a service location manager instead of a human broker.

Applicants' respectfully submit that as a whole, neither Menditto nor Bochmann, alone or in combination, suggest all of the features of Applicants' Claim 1. Additionally, the present Office Action fails to explain why the differences between Menditto, Bochmann, and Applicants' invention would have been obvious to one of ordinary skill in the art.

Independent Claims 5, 25, and 35 should be patentable for similar reasons stated herein that independent Claim 1 should be patentable. Applicants respectfully submit that Claims 6-14 depending upon Claim 5, 18-24 depending upon Claim 15, 26-34 depending upon Claim 25, and 36-44 depending upon 35 are allowable as being dependent upon an allowable base claim.

CONCLUSION

In light of the amendments and remarks presented herein, Applicants respectfully request reconsideration of the rejected Claims 1-44 for allowance thereof.

The Examiner is urged to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,  
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